

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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M.N.,

Plaintiff,

COMPLAINT

-against-

ARCHDIOCESE OF NEW YORK, ST. MATTHEW
CHURCH; and ST. MATTHEW SCHOOL,

Index No. _____

Defendants.

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TO THE SUPREME COURT OF THE STATE OF NEW YORK:

Plaintiff, M.N., by and through undersigned counsel, respectfully shows to this Court and alleges as follows:

Introduction

This is a revival action brought pursuant to the New York Child Victims Act, CPLR § 214-g. The Plaintiff, when he was a minor, was sexually assaulted over a period of years by an educator employed by the Archdiocese of New York, Michael J. O'Hara, a Catholic school teacher at St. Matthew in Hastings-on-Hudson.

Parties, Jurisdiction and Venue

1. Plaintiff, M.N., is a citizen and resident of the State of Connecticut. Plaintiff brings this Complaint using his initials because of the sensitive nature of the allegations of child sexual abuse in the Complaint, which is a matter of the utmost intimacy. Plaintiff fears embarrassment and further psychological damage if his identity as a victim of child sexual abuse were to become publicly known.

2. Defendant, Archdiocese of New York (hereafter, the “Archdiocese” or the “Archdiocese of New York”), is a religious institution and organization with principal offices located at 1011 First Ave., New York, NY 10022. The Archdiocese of New York controls all Catholic religious, pastoral and educational functions in the boroughs of Manhattan, Bronx and Staten Island, and in other counties in the greater New York metropolitan area. The Archdiocese operates and controls approximately 370 parishes, 274 schools and 90 Catholic charities. The Archdiocese is a citizen and resident of the State of New York.

3. Defendant, St. Matthew Church, is a Catholic parish and church located in Hastings-on-Hudson, New York. The parish has a school, known as St. Matthew School. (Hereafter the parish and school are collectively referred to as “St. Matthew” or the “Church”). At all relevant times, St. Matthew was owned, controlled and operated by the Archdiocese of New York.

4. This Court has subject matter jurisdiction of this action pursuant to Article VI of the New York Constitution.

5. Personal jurisdiction lies over Defendants Archdiocese and the Church as they are present and domiciled in the State of New York.

6. Venue of this action lies in New York County as one of the Defendants resides in New York County.

Notice of Sexual Abuse

7. Michael J. O’Hara was a sexual predator and serial pedophile with as many as 200 victims over a period of approximately 25 years. Upon information and belief, at all relevant times, Defendants Archdiocese of New York and St. Matthew, among other Archdiocesan

organizations, knew of Michael J. O'Hara's sexual abuse of boys during his career as a teacher and director at a CYO camp yet continued to give him unfettered access to boys.

8. As a young man, Michael J. O'Hara volunteered as a Boy Scouts' assistant scoutmaster and then scoutmaster for Troop 115 in Hewlett, New York, and he worked at the Queens Shelter for the Advancement of Youths. In or about 1963, O'Hara became a substitute teacher employed by the Archdiocese of New York in its Catholic schools. In these positions, Michael J. O'Hara sought access to boys to sexually molest.

9. In or about 1966, a complaint of child sexual abuse was made against Michael J. O'Hara by a Troop 115 boy scout. Troop 115 met at and was associated with St. Thomas the Apostle Catholic Church in West Hempstead, New York ("St. Thomas"). The complaint of child sexual abuse was reported to the National Council of the Boy Scouts of America. A letter from a St. Thomas official to a local Boy Scouts' official expressed grave concern over the allegation against O'Hara, requesting that the Boy Scouts take action to "protect our youth," noting that "[t]his incident happened once, and will certainly happen again unless this man [O'Hara] is taken out of his scouting capacity. Who knows how many times this [child sexual abuse] has happened before and how many youngsters,have been badly influenced by [O'Hara]." The Boy Scouts in response asked Michael J. O'Hara to resign from his position as scoutmaster. A subsequent letter between Boy Scouts' officials discusses a meeting with a Long Island CYO official and the St. Thomas pastor in which Michael J. O'Hara's activities as a Boy Scouts' leader and a teacher in the Catholic schools was discussed and the need to keep him away from children acknowledged. The letter states that Michael J. O'Hara "happens to be a teacher in the [Archdiocese} Catholic schools and he will be up before their Board of Education this week and a determination made by the Catholic Church."

10. At all relevant times, the Archdiocese of New York and the Church thus knew or should have known that Michael J. O'Hara was black listed by the Boy Scouts because of a credible complaint of child sexual abuse. Despite the Archdiocese's Board of Education meeting to discuss Michael J. O'Hara's future as an educator in the Archdiocese's Catholic school system, Michael J. O'Hara's career as a parochial school teacher continued unabated, and he received assignments in Catholic schools within the Archdiocese of New York for years thereafter.

11. In or about 1975-76, the Archdiocese assigned Michael J. O'Hara to be CYO Camp Director at Camp Hayes in Godeffroy, New York. Another victim of child sexual abuse by O'Hara at the camp disclosed the abuse to Father Frank Stinner. Instead of reporting to law enforcement or taking other appropriate action against O'Hara to protect children, Father Stinner gave the victim penance and told him to never speak of the sexual abuse again.

12. From approximately 1978 to 1984, O'Hara was a teacher and basketball coach at St. Matthew School, where M.N. was a student and a member of the basketball team.

13. In or about 1986, the Archdiocese assigned Michael J. O'Hara as the teacher and basketball coach at Immaculate Conception in the Bronx. Upon information and belief, Michael J. O'Hara was arrested for sexual abuse of boys in his position at Immaculate Conception. He was convicted for sexual crimes against children.

14. At all relevant times, the Archdiocese and the Church knew or in the exercise of reasonable care should have known that Michael J. O'Hara had a propensity for the conduct which caused injury to Plaintiff, in particular, that he had a propensity to engage in the sexual abuse of children.

15. At all relevant times, it was reasonably foreseeable to the Archdiocese and the Church that Michael J. O'Hara would commit acts of child sexual abuse or assault on a child.

16. At all relevant times, the Archdiocese and the Church knew or should have known that Michael J. O'Hara was unfit, dangerous, and a threat to the health, safety and welfare of the minors entrusted to his counsel, care and/or protection.

17. With such actual or constructive knowledge, the Archdiocese, provided respectively, Michael J. O'Hara, with unfettered access to Plaintiff and gave the opportunity to commit foreseeable acts of child sexual abuse or assault.

Sexual Abuse of Plaintiff

18. Michael J. O'Hara sexually assaulted Plaintiff on multiple occasions over a period of approximately 3 years when Plaintiff attended St. Matthew School, from approximately 1981 – 1984.

19. Michael J. O'Hara would have the Plaintiff come to his apartment to run errands. Michael J O'Hara would arrange for Plaintiff to find pornography magazines and groomed him for sexual abuse. Michael J. O'Hara masturbated on the couch in front of Plaintiff.

Nature of Conduct Alleged

20. This action alleges physical, psychological and emotional injuries suffered as a result of conduct which would constitute a sexual offense on a minor as defined in Article 130 of the New York Penal Law, including without limitation, conduct constituting rape (consisting of sexual intercourse) (N.Y. Penal Law §§ 130.25 – 130.35); criminal sexual act (consisting of oral or anal sexual conduct) (N.Y. Penal Law §§ 130.40 – 130.53), and/or sexual abuse (consisting of sexual contact) (N.Y. Penal Law §§ 130.55 – 130.77).

21. The limitation of liability set forth in CPLR Art. 16 is not applicable to the claim of personal injury alleged herein, by reason of one or more of the exemptions provided in CPLR

§ 1602, including without limitation, that Defendant acted with reckless disregard for the safety of others, including Plaintiff, or knowingly or intentionally, in concert with Michael J. O'Hara, to retain them in their positions as educators with unfettered access to children.

COUNT I
NEGLIGENCE
(against St. Matthew)

22. Plaintiff repeats and realleges Paragraphs 1 through 21 above.

23. At all material times, St. Matthew and Plaintiff were in a special relationship of school-student, in which St. Matthew owed Plaintiff a duty of reasonable care.

24. At all material times, St. Matthew and Michael J. O'Hara were in a special relationship of employer – employee, in which St. Matthew owed a duty to control the acts and conduct of Michael J. O'Hara to prevent foreseeable harm.

25. At all material times, St. Matthew owed Plaintiff a duty to exercise the level of care that a parent of ordinary prudence would observe under the circumstances.

26. The Church owed a duty to Plaintiff to use reasonable care to protect the safety, care, well-being and health of Plaintiff while he was under the care, custody or in the presence of St. Matthew. The Church's duties encompassed the hiring, retention and supervision of Michael J. O'Hara, and otherwise providing a safe environment for Plaintiff.

27. St. Matthew breached these duties by failing to protect the minor M.N. from sexual assault and lewd and lascivious acts committed by Michael J. O'Hara.

28. At all relevant times, the Church created an environment which fostered child sexual abuse against children it had a duty to protect, including Plaintiff.

29. At all relevant times, the Church had inadequate policies and procedures to protect children it was entrusted to care for and protect, including Plaintiff.

30. As a direct and proximate result of St. Matthew's negligence, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

31. The Church's acts and conduct shows a reckless or willful disregard for the safety and well-being of M.N.

WHEREFORE, Plaintiff demands judgment against the Church for compensatory damages, punitive damages, costs and such other and further relief as this Court deems proper.

COUNT II
NEGLIGENCE
(against the Archdiocese)

32. Plaintiff repeats and realleges Paragraphs 1 through 21 above.

33. At all material times the Archdiocese, as principal, and the Church as agent, were in an agency relationship, such that the Church acted on the Archdiocese's behalf, in accordance with the Archdiocese's instructions and directions on all matters, including those relating to its educators, including teacher and coaching personnel. The acts and omissions of the Church were subject to the Archdiocese's plenary control, and the Church consented to act subject to the Archdiocese's control.

34. At all material times, the Archdiocese and Plaintiff were in a special relationship of school-student and church - parishioner, in which the Archdiocese owed Plaintiff a duty of reasonable care.

35. At all material times, the Archdiocese and Michael J. O'Hara were in a special relationship of employer - employee, in which the Archdiocese owed a duty to control the acts and conduct of O'Hara to prevent foreseeable harm.

36. The Archdiocese owed a duty to Plaintiff to use reasonable care to protect the

safety, care, well-being and health of the Plaintiff while he was under the care, custody or in the presence of the Archdiocese. The Archdiocese's duties encompassed the hiring, retention and/or supervision of Michael J. O'Hara and otherwise providing a safe environment for Plaintiff.

37. At all material times, the Archdiocese owed Plaintiff as a student in its schools a duty to exercise the level of care that a parent of ordinary prudence would observe under the circumstances.

38. The Archdiocese breached these duties by failing to protect the minor M.N. from sexual assaults and lewd and lascivious acts committed by agents or employees of the Archdiocese.

39. At all relevant times, the Archdiocese created an environment which fostered child sexual abuse against children it had a duty to protect, including Plaintiff.

40. At all relevant times, the Archdiocese had inadequate policies and procedures to protect children it was entrusted to care for and protect, including Plaintiff.

41. As a direct and proximate result of the Archdiocese's negligence, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

42. The Archdiocese's acts and conduct shows a reckless or willful disregard for the safety and well-being of M.N.

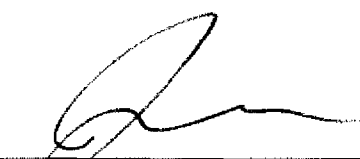
WHEREFORE, Plaintiff demands judgment against the Archdiocese for compensatory damages, punitive damages, costs and such other and further relief as this Court deems proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial in this action.

Dated: New York, New York
September 19, 2019

By: _____


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